

Medic Pro Healthcare Sdn Bhd v Hansen Chua Chin Shen & Ors

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HIGH COURT (SHAH ALAM) — CIVIL SUIT NO BA-22NCVC-394–10
OF 2024
ASMAH MUSA JC
3 DECEMBER 2025

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Civil Procedure — Discovery — Anton Piller discovery — Whether plaintiff had satisfied legal requirements for court to grant ex parte Anton Piller order ('APO') to carry out search and seizure at defendants' premises — Whether plaintiff had demonstrated strong prima facie case and real possibility of destruction of evidence if APO was not enforced — Whether defendants had not shown cogent or credible evidence for APO to be set aside or stayed

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The plaintiff was in the business of providing specialised medical, clinical and technical products in addition to offering training and support services. In the instant action, the plaintiff alleged that whilst he was in its employ, the first defendant ('D1') had access to extensive confidential information and materials belonging to the plaintiff including its training modules, client lists, pricing structures, technical manuals, commercial planning documents and other proprietary assets. It was further alleged that significant unauthorised downloading, copying and transferring of the plaintiff's confidential information and materials onto electronic devices and cloud storage accounts had taken place before D1 left the plaintiff. Shortly after D1's resignation, the plaintiff discovered that the defendants had gone into the business of providing the same goods and services as the plaintiff thereby causing the plaintiff to substantially lose its clients, business opportunities, suppliers and intellectual knowledge base. In order to prove misappropriation and use by the defendants of the plaintiff's confidential information, the plaintiff applied for and obtained an ex parte Anton Piller order ('APO') from the High Court allowing it to enter the defendants' premises to search and seize or make copies of incriminating evidence it could use in support of its case at trial. Following the execution of the APO, the defendants individually applied to set aside or stay the APO. The defendants contended, inter alia, that the legal requirements for the grant of the APO had not been met, that the APO was executed in an oppressive manner, that the plaintiff failed to make full and frank disclosure of material facts when applying for the APO and that the documents/materials that were seized or imaged during the execution did not show any wrongdoing on the defendants' part. The plaintiff denied the defendants' several assertions and urged the court to dismiss the setting aside/stay applications.

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Held, dismissing the setting aside/stay applications and ordering the APO to

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remain in force until disposal of the suit:
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(1) The plaintiff had demonstrated a strong prima facie case and established the seriousness of potential harm it would suffer and a real possibility of destruction of evidence if the APO was not enforced. The plaintiff had disclosed all material facts when applying for the APO and the execution of the APO had been properly done. There were no grounds to either discharge or stay the APO (see paras 68 & 72).

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(2) The results of the plaintiff’s forensic investigations disclosed the presence of extensive confidential materials belonging to the plaintiff on personal devices and cloud-linked accounts associated with D1. These materials included training modules, supplier pricing sheets, customer strategies, operational manuals and other proprietary documentation central to the plaintiff’s competitive position in the market. The forensic records revealed patterns of mass access, copying, renaming and transfer of the plaintiff’s materials shortly before D1’s resignation from the plaintiff. These patterns were not convincingly explained by reference to the usual workflow practices, nor did they align with innocuous professional activity (see para 62).

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(3) The timing of the data extractions coupled with subsequent commercial activities associated with several of the defendants painted a compelling circumstantial picture. For example, training and workshop sessions conducted by the sixth defendant (which the plaintiff asserted bore similarities to its proprietary content) raised legitimate concerns regarding the potential exploitation of confidential material. Likewise, the seventh defendant’s involvement in product distribution channels previously occupied by the plaintiff shortly after D1’s resignation from the plaintiff, was a relevant fact that contributed to the prima facie analysis. D1’s possession of confidential materials beyond the scope of his employment together with the emergence of potentially compelling activities involving him and the other defendants, provided sufficient basis for the court to conclude that the plaintiff had established a strong prima facie case (see paras 63 & 65).

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(4) The supervising solicitors’ notes and the documentary record of execution of the APO showed adherence to the schedules and safeguards set forth in the order. The defendants had not produced credible evidence to show that the APO was executed beyond its scope or that private or privileged files were accessed or that the search was conducted in an oppressive or improper manner (see para 69).

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(5) The defendants had not demonstrated exceptional circumstances for the court to grant a stay of the APO. Their assertions of hardship, reputational harm or inconvenience did not rise to the level of

exceptional prejudice contemplated by the authorities. The risk that relevant evidence might be lost or destroyed if the APO was stayed was real (see para 70).

- (6) Although the strength of the plaintiff's case might vary as against each defendant individually, the cumulative evidence suggested co-ordinated activity that warranted preservation of materials pending the trial of the action. It was inappropriate to discharge or stay the APO merely because the plaintiff had yet to establish a full evidentiary link to each defendant. These were matters for trial and not for interlocutory determination (see para 71).

[Bahasa Malaysia summary]

Plaintif menjalankan perniagaan membekalkan produk perubatan, klinikal dan teknikal yang khusus, di samping menawarkan perkhidmatan latihan dan sokongan. Dalam tindakan semasa, plaintiff mendakwa bahawa semasa beliau berada dalam perkhidmatan plaintiff, defendan pertama ('D1') mempunyai akses kepada maklumat dan bahan sulit yang meluas milik plaintiff, termasuk modul latihannya, senarai pelanggan, struktur harga, manual teknikal, dokumen perancangan komersial serta aset milikan lain. Selanjutnya, ianya telah didakwa bahawa telah berlaku muat turun, penyalinan dan pemindahan yang tidak dibenarkan secara ketara terhadap maklumat dan bahan sulit milik plaintiff ke dalam peranti elektronik dan akaun storan awan sebelum D1 meninggalkan plaintiff. Tidak lama selepas peletakan jawatan D1, plaintiff mendapati bahawa defendan telah menceburi perniagaan membekalkan barangan dan perkhidmatan yang sama seperti plaintiff, yang menyebabkan plaintiff mengalami kehilangan besar terhadap pelanggannya, peluang perniagaan, pembekal serta asas pengetahuan harta intelek. Bagi membuktikan penyalahgunaan dan penggunaan oleh defendan terhadap maklumat sulit plaintiff, plaintiff telah memohon dan memperoleh satu perintah Anton Piller secara ex parte ('PAP') daripada Mahkamah Tinggi yang membenarkannya memasuki premis defendan untuk mencari dan menyita atau membuat salinan bahan bukti yang menyalahi undang-undang bagi digunakan sebagai menyokong kesnya semasa perbicaraan. Berikutan pelaksanaan PAP tersebut, defendan secara individu telah memohon untuk mengetepikan atau menggantung pelaksanaan PAP. Defendan berhujah, antara lain, bahawa keperluan undang-undang bagi pemberian PAP tidak dipenuhi, bahawa PAP telah dilaksanakan secara menindas, bahawa plaintiff telah gagal membuat pendedahan penuh dan jujur terhadap fakta material semasa memohon PAP, serta bahawa dokumen/bahan yang disita atau diimejkan semasa pelaksanaan tersebut tidak menunjukkan sebarang salah laku di pihak defendan. Plaintiff menafikan kesemua dakwaan tersebut dan menggesa mahkamah supaya menolak permohonan-permohonan untuk mengetepikan atau menggantung pelaksanaan PAP.

- A **Diputuskan**, menolak permohonan untuk mengetepikan atau menggantung pelaksanaan PAP dan memerintahkan PAP tersebut kekal berkuat kuasa sehingga pelupusan tindakan ini:
- B (1) Plaintiff telah menunjukkan satu kes prima facie yang kukuh dan membuktikan keseriusan kemudaratan berpotensi yang akan dialaminya serta kewujudan kemungkinan sebenar pemusnahan bukti sekiranya PAP tidak dikuatkuasakan. Plaintiff telah mendedahkan semua fakta material semasa memohon PAP dan pelaksanaan PAP telah dijalankan dengan sewajarnya. Tiada alasan untuk sama ada membatalkan atau menggantung PAP tersebut (lihat perenggan 68 & 72).
- C (2) Hasil siasatan forensik plaintiff mendedahkan kewujudan bahan sulit yang meluas milik plaintiff pada peranti peribadi dan akaun berkaitan storan awan yang dikaitkan dengan D1. Bahan-bahan tersebut termasuk modul latihan, helaian harga pembekal, strategi pelanggan, manual operasi dan dokumentasi proprietari lain yang menjadi teras kepada kedudukan kompetitif plaintiff dalam pasaran. Rekod forensik menunjukkan corak akses secara besar-besaran, penyalinan, penamaan semula dan pemindahan bahan plaintiff sejurus sebelum peletakan jawatan D1 daripada plaintiff. Corak-corak ini tidak dapat dijelaskan secara meyakinkan dengan merujuk kepada amalan aliran kerja biasa, dan juga tidak sejajar dengan aktiviti profesional yang jujur (lihat perenggan 62).
- D (3) Masa pengekstrakan data tersebut, digabungkan dengan aktiviti komersial berikutnya yang dikaitkan dengan beberapa defendan, membentuk gambaran keadaan yang kukuh. Sebagai contoh, sesi latihan dan bengkel yang dijalankan oleh defendan keenam (yang didakwa oleh plaintiff mempunyai persamaan dengan kandungan proprietarinya) menimbulkan kebimbangan yang sah mengenai potensi eksploitasi bahan sulit. Begitu juga, penglibatan defendan ketujuh dalam saluran pengedaran produk yang sebelum ini diduduki oleh plaintiff tidak lama selepas peletakan jawatan D1 merupakan suatu fakta relevan yang menyumbang kepada analisis prima facie. Pemilikan oleh D1 terhadap bahan sulit di luar skop pekerjaannya, bersama-sama dengan kemunculan aktiviti yang berpotensi kukuh melibatkan beliau dan defendan-defendan lain, memberikan asas yang mencukupi kepada mahkamah untuk menyimpulkan bahawa plaintiff telah membuktikan satu kes prima facie yang kukuh (lihat perenggan 63 & 65).
- E (4) Nota peguam penyelia serta rekod dokumentari pelaksanaan PAP menunjukkan pematuhan terhadap jadual dan perlindungan yang diperuntukkan dalam perintah tersebut. Defendan gagal mengemukakan keterangan yang boleh dipercayai bagi menunjukkan bahawa PAP telah dilaksanakan di luar skopnya atau bahawa fail peribadi atau berkeistimewaan telah diakses, atau bahawa carian tersebut
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dijalankan secara menindas atau tidak wajar (lihat perenggan 69).

- (5) Defendan gagal menunjukkan keadaan luar biasa yang membolehkan mahkamah memberikan suatu perintah penggantungan pelaksanaan PAP. Dakwaan mereka mengenai kesukaran, kemudharatan reputasi atau ketidakselesaian tidak mencapai tahap prejudis luar biasa sebagaimana yang diperuntukkan oleh autoriti. Risiko bahawa keterangan yang relevan mungkin hilang atau dimusnahkan sekiranya PAP digantung adalah nyata (lihat perenggan 70).
- (6) Walaupun kekuatan kes plaintif mungkin berbeza terhadap setiap defendan secara individu, keterangan kumulatif menunjukkan aktiviti yang diselaraskan yang mewajarkan pemeliharaan bahan-bahan tersebut sementara menunggu perbicaraan tindakan ini. Ia adalah tidak wajar untuk membatalkan atau menggantung PAP semata-mata kerana plaintif belum membuktikan hubungan keterangan sepenuhnya terhadap setiap defendan. Perkara-perkara ini adalah untuk ditentukan semasa perbicaraan dan bukannya bagi penentuan secara interlokutori (lihat perenggan 71).]

Cases referred to

- Arthur Anderson & Co v Interfood Sdn Bhd* [2005] 6 MLJ 239, CA (folld)
Centek Ltd & Ors v Farrah Dheeba bt Shaiful Ridzuan & Ors [2021] 9 MLJ 548, HC (refd)
IOUpay Ltd & Ors v Kuan Choon Hsuing & Ors [2025] MLJU 4, HC (folld)
Permodalan MBF Sdn Bhd v Tan Sri Datuk Seri Hamzah bin Abu Samah & Ors [1988] 1 MLJ 178, SC (refd)
Renault SA v Inokom Corp Sdn Bhd & Anor and other appeals [2010] 5 MLJ 394, CA (refd)
Sigma Glove Industries Sdn Bhd & Ors v Ong Chin Kok & Anor [2018] 8 MLJ 481, HC (folld)
Lim Zi Han (Hooi Kit Yi with him) (Donovan & Ho) for the plaintiff.
Ghazali Cha (with Lim Yang Yang and Zuriana bt Zakaria) (Yang Lim & Co) for the first, second and fifth defendants.
Lee Zi Qin (with Tan Shao Jia and Manjit Singh Sachdev) (Mohammad Radzi & Partners) for the third defendant.
Philip Ryan Mathew (with Jeannie Chong) (Philip Mathew) for the fourth and seventh defendants.

Asmah Musa JC:

INTRODUCTION

[1] These grounds of judgment concern the defendants' applications to set aside or stay the Anton Piller order granted to the plaintiff on an ex parte basis,

A as well as the plaintiff's application for the order to be continued until trial. The
matter before the court requires careful consideration of the principles
governing Anton Piller relief, the circumstances surrounding its execution, the
nature of the confidential information said to have been removed by the first
defendant, and the involvement or alleged involvement of the remaining
B defendants.

[2] The plaintiff alleges that the first defendant, a former senior employee,
had access to extensive confidential materials belonging to the plaintiff's
C business, including training modules, client lists, pricing structures, technical
manuals, commercial planning documents, and other proprietary assets. It is
further alleged that shortly before the first defendant's resignation, there was
significant activity involving the downloading, transferring, and duplicating of
such materials across personal devices, external storage media, cloud accounts,
D and laptops not authorised or controlled by the plaintiff.

[3] The plaintiff asserts that it obtained preliminary forensic results strongly
suggestive of deliberate extraction of confidential information. It contends that
within a short period following the first defendant's resignation, the second
E through seventh defendants appeared to assume roles connected to the
marketing, distribution, or use of similar materials or services, thereby
indicating a coordinated effort to divert the plaintiff's business opportunities,
clients, suppliers, and intellectual knowledge base.

F [4] Based on these concerns, the plaintiff applied for an ex parte Anton Piller
order. The court granted the order, permitting entry onto certain premises
associated with the defendants, the imaging of electronic devices, and the
preservation of data pursuant to Schedules 3 and 7. Supervising solicitors were
appointed to ensure that the order was executed according to proper
G safeguards, including respect for personal privacy and avoidance of seizure of
unrelated sensitive information.

H [5] After the execution of the order, each defendant filed an application
seeking its discharge or stay. They contend that the plaintiff did not meet the
legal requirements for an Anton Piller order, that the order was executed in
an oppressive manner, that the plaintiff failed to provide full and frank disclosure
in its ex parte application, that the documents seized or imaged show no
wrongdoing, and that the forensic results relied upon by the plaintiff have been
I misconstrued or overstated.

[6] The plaintiff, in reply, maintains that the defendants' explanations are
insufficient. It argues that strong evidence exists of improper extraction and use
of confidential information. It denies that any oppression occurred during

execution of the order and submits that a stay would undermine the central objective of preserving evidence.

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[7] The court therefore must determine whether the Anton Piller order was validly obtained, whether the circumstances justify its continuation, whether the execution was conducted lawfully, and whether the defendants have met the high threshold required to stay or set aside such an order.

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FACTUAL BACKGROUND

[8] The plaintiff operates a business providing specialised medical, clinical, and technical products, together with comprehensive training and support services. The plaintiff asserts that the success of its business depends heavily on its proprietary training materials, confidential cost structures, curated supplier relationships, and detailed technical documentation. Access to these documents is said to be limited to employees who require them for operational use.

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[9] The first defendant was formerly employed in a senior role that afforded him substantial exposure to the plaintiff's confidential information. He was responsible for training sessions, customer engagement, supplier communication, internal troubleshooting, and management of operational tools. By virtue of his position, he had extensive access to materials that allegedly form the core intellectual assets of the plaintiff's business.

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[10] The plaintiff contends that in the weeks before the first defendant resigned, there was unusual activity detected within its digital infrastructure. This included the viewing, duplicating, renaming, and saving of internal documents, some of which were marked confidential and intended strictly for internal circulation. The forensic listing revealed that these files were transferred or copied onto external devices or personal accounts that were not part of the plaintiff's official systems.

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[11] The defendants dispute this characterisation. The first defendant asserts that any access or transfer of documents was legitimate, part of his ordinary workflow, and often necessary because of the plaintiff's alleged practice of allowing employees to use personal devices for work tasks. He denies any intention to remove or exploit confidential information. He insists that upon his resignation, he returned the devices issued to him and cooperated fully with the plaintiff.

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[12] The forensic listing, however, shows that copies of certain folders and files possessing identical naming structures to those used within the plaintiff's internal systems appeared on the personal devices or cloud accounts associated

A with the first defendant. The plaintiff asserts that this demonstrates a pattern inconsistent with routine use.

B [13] After the first defendant's resignation, the plaintiff became aware that some of the remaining defendants appeared to be involved in activities resembling the plaintiff's services. The sixth defendant conducted certain workshops that the plaintiff alleges were materially similar to training modules created by the plaintiff. The seventh defendant became involved in a distribution arrangement with suppliers previously associated with the plaintiff, and the third and fourth defendants were allegedly connected to the use or promotion of products similar to those sold by the plaintiff.

D [14] The defendants deny that their activities involved any misuse of the plaintiff's confidential information. They argue that any overlap in business focus is coincidental or based on publicly available knowledge, not derived from any of the plaintiff's proprietary resources.

E [15] Upon assessing the available materials, the court granted the Anton Piller order. Its objective was limited to preserving the status quo and preventing the destruction or concealment of potentially crucial evidence pending discovery and trial. The order did not constitute a finding of wrongdoing but rather an exceptional preservatory measure to protect the integrity of evidence.

F [16] The execution of the order took place at several locations. Supervising solicitors documented the process, ensured compliance with the safeguards, and attempted to balance the rights of the parties. Devices belonging to the defendants were imaged, but unrelated information was meant to remain confidential and inaccessible to the plaintiff unless subsequently ordered by the court following an appropriate filtering procedure.

H [17] The defendants later argued that the execution was oppressive, but they have provided little detail beyond general claims of inconvenience, stress, or alleged overreach. The supervising solicitors' notes appear to contradict much of the defendants' narrative, indicating that the order was carried out professionally and within the authorised limits.

PROCEDURAL HISTORY

I [18] Following the execution, the defendants filed applications to set aside or stay the Anton Piller order. They argue that the plaintiff failed to meet the requirements for such an extreme remedy, and that the alleged wrongdoing is speculative. They also assert that the plaintiff exaggerated or mischaracterised the results of the forensic listing, wrongly implicating the defendants in a

conspiracy without sufficient evidence.

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[19] The plaintiff filed extensive replies, asserting that the evidence meets the legal standard of a strong prima facie case. It contends that the timing and pattern of file movements, together with supplier communications and workshop materials, create a cohesive picture of a coordinated attempt to exploit the plaintiff's intellectual assets.

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[20] The plaintiff relies on authorities such as *Arthur Anderson & Co v Interfood Sdn Bhd* [2005] 6 MLJ 239, *Centek Ltd & Ors v Farrah Dheeba bt Shaiful Ridzuan & Ors* [2021] 9 MLJ 548, *IOUpay Ltd & Ors v Kuan Choon Hsuing & Ors* [2025] MLJU 4 and *Sigma Glove Industries Sdn Bhd & Ors v Ong Chin Kok & Anor* [2018] 8 MLJ 481 to argue that the order was justified and that the burden to interfere with it now lies heavily on the defendants.

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[21] The court now turns to the legal framework before applying it to the facts.

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APPLICABLE LEGAL PRINCIPLES

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[22] The principles governing the grant, maintenance, and potential discharge of an Anton Piller order are well settled under Malaysian jurisprudence. The court is guided principally by the decision in *Arthur Andersen & Co v Interfood Sdn Bhd*, which remains the foundational authority in this jurisdiction. That case reaffirms that the discretion to grant an Anton Piller order must be exercised with considerable caution, given its invasive nature and the potential impact on the rights and privacy of the affected parties. The court must be satisfied that the applicant has established a strong prima facie case, that the alleged wrongdoing threatens very serious actual or potential harm, and that there is a real possibility that the defendant may destroy or conceal relevant evidence. These requirements ensure that the extraordinary nature of the order is balanced against the need to protect justice and prevent the frustration of judicial processes.

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[23] The first requirement, namely the need for a strong prima facie case, demands more than a mere arguable claim. It obliges the applicant to demonstrate credible, substantive evidence which would justify a reasonable apprehension that confidential information has been taken or misused, or that the defendant has otherwise engaged in conduct warranting immediate preservative intervention. In commercial espionage or digital-misappropriation contexts, this threshold is often met through forensic evidence, document trails, metadata analysis, or circumstantial indicators pointing to improper extraction or copying of internal documentation. Courts are not required to establish liability at this stage but must be satisfied that the

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A applicant's case possesses convincing force.

[24] The second requirement, relating to the seriousness of the damage, reflects the rationale that an Anton Piller order is intended only for situations where the harm goes beyond typical commercial disputes. Where the information allegedly taken forms the core intellectual property or competitive advantage of the applicant's enterprise, the potential injury may be considered sufficiently grave. The nature of digital information is such that its dissemination cannot be reversed and its commercial exploitation may occur rapidly and covertly, thereby exacerbating the severity of the harm.

[25] The third requirement relates to the risk of destruction or concealment of evidence. It is not necessary for the applicant to prove that the defendant intends to destroy evidence but rather that there exists a real possibility that the evidence may not be preserved without immediate intervention. The High Court in *Centek Ltd v Farrah Dheeba* emphasised that courts are entitled to draw inferences from unexplained patterns of conduct, suspicious data-transfer behaviour, or inconsistent explanations. This principle is particularly pertinent in cases involving electronic evidence, where files can be deleted, altered, or encrypted quickly and without trace.

[26] It is also pertinent to refer to *IOUpay Ltd v Kuan Choon Hsuing*. In that case, the High Court granted an Anton Piller order where former employees had copied large volumes of confidential company documentation onto personal laptops and cloud storage accounts. The court held that even absent definitive proof of misuse, the extraction of such materials constituted a sufficient prima facie basis for intervention. The case underscores that in the digital realm, possession of confidential materials outside authorised environments is inherently suspicious and may justify an Anton Piller order, especially where the employee had recently resigned or was about to engage with a competitor.

[27] The duty of full and frank disclosure also forms a central component of the legal framework. Applicants must present all material facts, including those that may be adverse to their position. This duty arises because the application is made ex parte, and the court does not have the benefit of hearing arguments from the opposing side. A failure to comply may result in the discharge of the order. However, the courts have clarified that the non-disclosure must be material; that is, it must relate to facts which, if disclosed, would reasonably have impacted the court's decision to grant the order. A mere disagreement over interpretation or emphasis does not constitute material non-disclosure.

[28] In relation to the execution of the order, the court is guided by principles articulated in decisions such as *Sigma Glove Industries v Ong Chin*

Kok. Execution must be conducted with strict adherence to the supervisory safeguards established under the order. Oppression arises only where there is substantial injustice or serious deviation from the authorised scope. The mere fact that the search caused inconvenience does not establish oppression. The courts recognise that such searches may be intrusive, yet they remain lawful where carried out under supervision and within the parameters of the order.

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[29] Finally, the principles governing stay applications must be briefly revisited. A stay of an Anton Piller order is rarely granted because the order's purpose is fundamentally preservatory. If the court were to grant a stay, the applicant's entire objective in seeking to preserve evidence may be defeated. As expressed in *Permodalan MBF Sdn Bhd v Tan Sri Datuk Seri Hamzah bin Abu Samah & Ors* [1988] 1 MLJ 178, the party seeking a stay bears a heavy burden to demonstrate exceptional circumstances, and the court must be mindful that delaying or suspending the order may expose the applicant to irreversible prejudice.

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SUBMISSIONS OF THE PLAINTIFF

[30] The plaintiff submits that the forensic listing, together with supporting communications, metadata indications, and behavioural patterns, establishes a strong prima facie case of misappropriation of confidential information. It argues that the first defendant's possession of extensive proprietary documents outside the corporate environment is a critical factor supporting the application. The plaintiff emphasises that the volume and nature of the documents found on the first defendant's personal storage devices mirror the architecture of its internal systems, strongly suggesting systematic copying rather than incidental retention.

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[31] According to the plaintiff, the seriousness of the potential harm cannot be overstated. The documents include commercial strategies, supplier costings, training methodologies, and market analytics which, if used by a competitor, could significantly erode the plaintiff's competitive position. The plaintiff notes that the emergence of what appears to be a parallel enterprise involving several defendants soon after the first defendant's resignation further heightens these concerns.

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[32] The plaintiff also submits that there exists a real possibility that the defendants may destroy or conceal the relevant evidence unless the order is maintained. It argues that the suspect file-access patterns preceding the first defendant's resignation demonstrate familiarity with methods of data manipulation and storage beyond employer oversight. Given the digital nature of the documents, immediate action was required to preserve the integrity of evidence.

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- A [33] On the issue of full and frank disclosure, the plaintiff contends that it placed all relevant material before the court during the ex parte hearing. It submits that the alleged non-disclosures raised by the defendants relate more to factual disputes or alternative interpretations rather than omissions of material facts. The plaintiff insists that the court was informed of the limitations in the forensic evidence, the preliminary nature of some findings, and uncertainties concerning the extent of downstream data usage.

- C [34] The plaintiff further argues that the execution of the order was conducted professionally, carefully, and under the strict supervision. It notes that any temporary discomfort caused to the defendants is inherent in the nature of an Anton Piller search and does not in itself constitute oppression.

- D [35] Finally, the plaintiff asserts that a stay of the APO would be highly prejudicial, as it would undermine the preservation of electronic evidence. The plaintiff warns that without the ongoing preservation obligations imposed by the order, there exists a tangible risk that evidence may be deleted intentionally or inadvertently.

E SUBMISSIONS OF THE FIRST DEFENDANT

- F [36] The first defendant argues that the plaintiff has mischaracterised the forensic listing and that any documents found on his personal devices were there solely as part of his normal work processes. He states that the plaintiff had inconsistent data-governance practices and permitted employees to use personal devices to store, access, or transport work files. According to him, this organisational laxity renders the plaintiff's inference of misconduct speculative.

- G [37] The first defendant asserts that the plaintiff has not demonstrated any instance in which he misused the documents allegedly in his possession. He denies sharing, transmitting, or deploying confidential materials for the benefit of the other defendants. He challenges the plaintiff's reliance on circumstantial indicators, stating that such inferences are insufficient to satisfy the strong prima facie threshold under *Arthur Andersen*.

- I [38] The first defendant also complains that the execution of the APO was conducted in an intimidating manner. He describes the presence of multiple solicitors and technology personnel as oppressive and claims that the plaintiff's legal team attempted to access unrelated personal data. He disputes the supervising solicitors' records and argues that the court should treat the APO execution as unlawful or excessive.

- [39] He submits that the plaintiff omitted material facts at the ex parte

hearing, including the alleged inconsistencies in its own data-management procedures. According to him, the plaintiff's failure to disclose this context amounts to a breach of the duty of full and frank disclosure, thereby warranting discharge of the order.

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SUBMISSIONS OF THE SECOND DEFENDANT

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[40] The second defendant submits that the plaintiff has failed to demonstrate any connection between him and the alleged removal or misuse of confidential information. He states that he neither possessed, accessed, nor had the ability to access any of the plaintiff's confidential materials. According to the second defendant, the plaintiff's claim against him is speculative and based largely on his personal acquaintance with the first defendant. He emphasises that mere social or professional association does not amount to participation in a conspiracy, and that the plaintiff has failed to produce any e-mails, documents, or forensic evidence linking him to the extraction, storage, transfer, or exploitation of the materials in question.

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[41] The second defendant therefore argues that the Anton Piller order should never have extended to her, and that the execution at her premises was unwarranted and unjustified. She contends that the plaintiff's case against her lacks legal and factual basis and cannot meet the strong *prima facie* threshold. She also repeats the argument that the APO's execution was excessive, noting that she was compelled to surrender certain devices despite the absence of any factual nexus to the plaintiff's claims.

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SUBMISSIONS OF THE THIRD DEFENDANT

[42] The third defendant submits that he was never employed by the plaintiff and at no material time had access to the plaintiff's systems, documents, confidential databases, or training materials. He states that the plaintiff's assertions regarding his involvement in any alleged conspiracy are unsubstantiated. In support of this, he highlights the absence of any seized documents from his premises that could be remotely linked to the plaintiff's business.

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[43] The third defendant relies on the principles articulated in *Renault SA v Inokom Corp Sdn Bhd & Anor and other appeals* [2010] 5 MLJ 394 in emphasising that conspiracy must be clearly pleaded with particulars. He argues that the plaintiff has failed to identify any agreement, collective intention, overt act, or resulting damage attributable specifically to him. The plaintiff, according to the third defendant, relies merely on parallel commercial conduct, which is insufficient to support a conspiracy claim at this stage.

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A [44] He further states that the execution of the APO at his residence caused undue embarrassment and inconvenience, and that the absence of any relevant evidence seized from him demonstrates that the plaintiff's case is unsustainable. He invites the court to set aside the order insofar as it applies to him.

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SUBMISSIONS OF THE FOURTH DEFENDANT

C [45] The fourth defendant contends that all allegations made against her stem from a misunderstanding of an email extracted from a supplier. She maintains that the email relied on by the plaintiff does not suggest any form of business diversion or misuse of the plaintiff's confidential information. She asserts that the email refers to generic industry matters and does not involve the plaintiff's materials or strategic partnerships.

D [46] The fourth defendant also disputes the plaintiff's reliance on an Excel list which the plaintiff alleges resembles internal documents. She states that the list is self-generated, does not reference the plaintiff, and is based on publicly available market information. She disputes any suggestion that she possesses materials derived from the plaintiff's confidential repositories.

E [47] She further maintains that the execution of the APO at her clinic was unnecessary and distressing. According to her, the search yielded no relevant materials, thereby demonstrating that the plaintiff's claim against her lacks factual grounding. She therefore asks that the order be set aside as to her.

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SUBMISSIONS OF THE FIFTH DEFENDANT

G [48] The fifth defendant's position is that there is simply no case against her. She states that the plaintiff has not identified any document, device, communication, or forensic evidence linking her to the alleged misconduct. The plaintiff's assertions regarding her stem solely from his occasional participation in professional circles overlapping with the first defendant and sixth defendant.

H [49] She contends that the plaintiff's approach is speculative and that such speculation cannot support the issuance or continuation of an Anton Piller order against her. She submits that the plaintiff's failure to gather any incriminating evidence during the execution of the APO further supports the conclusion that the order should be discharged as it applies to her.

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SUBMISSIONS OF THE SIXTH DEFENDANT

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[50] The sixth defendant submits that he did not make use of the plaintiff's confidential information in preparing or delivering his training workshops. He states that the workshop materials relied upon by the plaintiff consist of generic industry explanations, basic clinical overviews, and high-level technical discussions that do not originate from the plaintiff and are commonly available in the industry.

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[51] He argues that the plaintiff's allegations rest on a mistaken assumption that any similarity in content must imply copying or misuse. The sixth defendant insists that there is no forensic link between the materials used by him and those of the plaintiff, and that the plaintiff has failed to show otherwise.

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[52] He further asserts that the Anton Piller order caused unnecessary disruption and reputational harm, and that the absence of any seizure of relevant information during execution demonstrates the weakness of the plaintiff's case.

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SUBMISSIONS OF THE SEVENTH DEFENDANT

[53] The seventh defendant's position is that it is a separate commercial entity engaged in lawful business activities. It contends that the plaintiff has failed to establish that the company was used as a vehicle for any wrongdoing. The seventh defendant argues that the plaintiff's attempt to draw an inference from its commercial emergence following the departure of the first defendant is insufficient to support an Anton Piller order.

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[54] According to the seventh defendant, the plaintiff has produced no evidence that any confidential documents belonging to the plaintiff were ever stored on its premises or used in its operations. The company argues that the APO executed at its office yielded no information supporting the plaintiff's allegations and therefore the order should not be maintained against it.

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THE COURT'S SYNTHESIS OF DEFENDANTS' POSITIONS

[55] Although the defendants vary in the specific factual bases upon which they resist the APO, their collective position is that the plaintiff's allegations are speculative, insufficiently substantiated, and incapable of meeting the high prima facie threshold required for such a drastic remedy. They assert that the plaintiff relies on inference rather than direct evidence and that the forensic listing has been misinterpreted or overstated.

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A [56] The defendants further argue that the APO's execution was oppressive and that the plaintiff failed to provide full and frank disclosure. Several defendants emphasise the lack of any seized material relevant to the plaintiff's business, contending that this fact demonstrates an absence of wrongdoing.

B [57] The court notes that while these submissions collectively aim to dislodge the legal foundation of the APO, the varying levels of involvement alleged by the plaintiff necessitate a careful evaluative approach that considers both the individual and collective dimensions of the claimed misconduct.

C SYNTHESIS OF THE PLAINTIFF'S REBUTTAL

D [58] The plaintiff responds that the defendants' explanations overlook the cumulative impact of the circumstantial and forensic evidence. It argues that the first defendant's extraction of large volumes of confidential data is a central and undisputed fact, and that the behaviour of the remaining defendants following his resignation must be assessed against this context. The plaintiff maintains that its case is supported not by isolated documents but by a coherent pattern of behaviour which it says demonstrates coordination.

E [59] The plaintiff reiterates that the forensic listing reveals file structures identical to its internal systems and that the timing of the data access, shortly before the first defendant's resignation, is implausible to dismiss as mere coincidence. It maintains that the defendants seek to compartmentalise issues to avoid the broader implications of the aggregated facts.

F [60] The plaintiff further asserts that no oppression occurred in the execution of the order and that the supervising solicitors' records clearly show compliance with procedural safeguards. It argues that any inconvenience to the defendants is inherent in the nature of an APO and insufficient to invalidate it.

G THE COURT'S ANALYSIS AND DETERMINATION

H [61] The court now turns to the central issues that must be resolved to determine whether the Anton Piller order ought to be maintained, whether it should be discharged as sought by the defendants, and whether the defendants' applications for a stay should be granted. In approaching these issues, the court is mindful that Anton Piller orders constitute one of the most exceptional remedies available in civil litigation, and that their issuance carries an inherent risk of prejudice if granted without proper justification. It is therefore critical that the court scrutinises the facts, the law, and the conduct of the parties with precision.

I [62] The first question concerns whether the plaintiff has established a

strong prima facie case. The forensic listing provides substantial assistance in answering this question. It discloses the presence of extensive confidential materials belonging to the plaintiff on personal devices and cloud-linked accounts associated with the first defendant. These materials include training modules, supplier pricing sheets, customer strategies, operational manuals, and other proprietary documentation central to the plaintiff's competitive position in the market. The first defendant's explanation that personal device usage was common within the plaintiff's workplace does not adequately address the volume, sensitivity, and organisation of the materials discovered. The forensic records reveal patterns of mass access, copying, renaming, and transfer shortly before the first defendant's resignation. These patterns are not convincingly explained by reference to the usual workflow practices, nor do they align with innocuous professional activity.

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[63] The court also observes that the plaintiff's case does not rely solely on the forensic listing. The timing of the data extractions, coupled with subsequent commercial activities associated with several of the defendants, paints a compelling circumstantial picture. For example, the emergence of training and workshop sessions conducted by the sixth defendant, which the plaintiff asserts bear similarities to its proprietary content, raises legitimate concerns regarding the potential exploitation of confidential material. Likewise, the involvement of the seventh defendant in product distribution channels previously occupied by the plaintiff, in close proximity to the resignation of the first defendant, is a relevant fact that contributes to the prima facie analysis.

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[64] The submissions of the second to seventh defendants, particularly those emphasising the lack of seized documents, must be understood within the broader context of the plaintiff's allegations. The absence of recovered materials from their premises does not in itself disprove the plaintiff's prima facie case. An Anton Piller order is preservatory, not accusatory. Its purpose is to safeguard potential evidence, not to prove liability. In many cases, especially those involving transfer or concealment of digital data, the absence of seized materials may reflect the ease with which data can be moved, deleted, or stored remotely, rather than the absence of wrongdoing.

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[65] In this regard, the court finds persuasive guidance in *IOUpay*. That case recognises that possession of confidential materials outside the employer's control is inherently suspicious, and that a prima facie case may be established even without direct evidence of downstream misuse. The parallels here are clear. The first defendant's possession of confidential materials beyond the scope of his employment, together with the emergence of potentially competing activities involving him and the other defendants, provides

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A sufficient basis for the court to conclude that the plaintiff has established a strong prima facie case.

B [66] Turning to the severity of potential harm, the court accepts the plaintiff's submission that its confidential materials represent the intellectual foundation of its business. Disclosure or misuse of these materials may cause harm that cannot be undone. The commercial strategies, internal pricing structures, and proprietary training modules discovered on the devices are not merely administrative documents; they are tangible manifestations of the plaintiff's accumulated experience, market analysis, and investment. Once disseminated or exploited, the competitive advantage they confer may be irreversibly lost.

D [67] In relation to the risk of destruction or concealment of evidence, the court finds that the plaintiff has satisfied this requirement as well. It bears noting that digital evidence, by its nature, can be easily manipulated, deleted, or transferred without trace. The clustering of file-access events shortly before the first defendant's resignation indicates an awareness of the digital environment and the capacity to move or erase information. The existence of files in cloud storage further exacerbates the risk, as such accounts can be accessed remotely or wiped entirely. The court must therefore err on the side of caution in preserving the integrity of relevant evidence pending trial.

F [68] The defendants' arguments regarding full and frank disclosure do not withstand scrutiny. The plaintiff disclosed the nature of the forensic listing, its limitations, and the contextual background concerning the defendants' relationships. The alleged non-disclosures pertain largely to matters of interpretation rather than omission. The court is satisfied that the plaintiff discharged its duty to present all material facts at the ex parte hearing. The defendants have not identified any fact which, if disclosed earlier, would have altered the court's decision to grant the order.

H [69] The allegations of oppressive conduct during the execution of the order must also be addressed. The supervising solicitors' notes and the documentary record of the execution show adherence to the schedules and safeguards set forth in the order. The defendants have not produced credible evidence demonstrating that the order was executed beyond its scope, that private or privileged files were accessed, or that the search was conducted in a manner inconsistent with judicial authority. The court therefore finds that the execution was carried out properly and within the bounds of lawful authority, consistent with the safeguards endorsed in *Sigma Glove*.

I [70] The applications for stay present a separate, though interconnected, issue. A stay would undermine the purpose of an Anton Piller order, which is to

preserve evidence pending the resolution of the substantive dispute. If the order were stayed, the plaintiff's ability to protect its confidential materials would be compromised. The court recognises that a stay is appropriate only in exceptional circumstances, and the defendants have not demonstrated such circumstances here. The risk that relevant evidence may be lost or destroyed remains real. The defendants' assertions of hardship, reputational harm, or inconvenience do not rise to the level of exceptional prejudice contemplated in the authorities.

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[71] The court also finds that the defendants' collective submission that they are innocent bystanders is unsustainable as a basis for setting aside the order. Although the strength of the plaintiff's case may vary as against each defendant individually, the cumulative evidence suggests coordinated activity that warrants preservation of materials pending trial. At this interlocutory stage, the court must avoid making premature factual findings but must instead ensure that the evidentiary landscape remains intact. It would be inappropriate to discharge or stay the order merely because the plaintiff has yet to establish a full evidentiary link to each defendant. These are matters for trial, not for interlocutory determination.

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[72] Accordingly, the court concludes that each of the three core requirements under *Arthur Andersen* has been fulfilled. The plaintiff has demonstrated a strong prima facie case, established the seriousness of potential harm, and proven the real possibility of destruction of evidence. There is no material non-disclosure, and the execution of the order has been proper. There are no grounds to grant a stay.

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FINAL ORDERS

[73] For the reasons set out in the preceding paragraphs, the court orders as follows. The Anton Piller order granted on 4 October 2024 shall be maintained in full pending the disposal of the main action. All defendants' applications to set aside or stay the order are dismissed. Costs of RM5,000.

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[74] These constitute the grounds of judgment of this court.

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Stay applications dismissed and APO ordered to remain in force until disposal of the suit.

Reported by Ashok Kumar

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